

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

CITY OF MEMPHIS

PLAINTIFF

VS.

CIVIL ACTION NO. No. 2:19-cv-02864-MSN-cgc

HORN LAKE CREEK BASIN INTERCEPTOR
SEWER DISTRICT and DESOTO COUNTY,
MISSISSIPPI

DEFENDANTS

**Horn Lake Creek Basin Interceptor Sewer District's
Third Progress Report**

This Court's Memorandum Opinion and Order [Doc. # 153] requires Horn Lake Creek Basin Interceptor Sewer District ("District") to file reports every six months that include detailed descriptions and explanation of: (1) its progress toward meeting the deadlines set forth in the construction schedules filed December 29, 2023 [Doc. # 162], and (2) any issues or circumstances that have caused delays, including the impact to the anticipated schedule. The District submitted its Estimated Construction Schedules for two separate projects: the remaining work needed to construct its peak flow storage facility, and construction or expansion of an alternative wastewater treatment facility. This Report includes updates on both projects, which remain on schedule based on the dates provided at [Doc. # 162].

The Storage Facility

The District's July 1, 2024 filing [Doc. # 168] reported that the first Report's [Doc. # 162] six-month goals for the storage facility had all been met, including several action items had already been completed, including: publication of the invitation to bid, selection of a winning bidder, negotiation of a contract, and beginning construction.

As reported in the July 2024 filing, Max Foote Construction Company, LLC was the winning bidder. The contract between the District and Max Foote provides that the project shall be substantially completed by July 25, 2025. In the July 2024 Report, the District noted that Entergy, the local electric utility, was planning to extend power to the site. Entergy has now done so. The contractors has completed approximately 80% of the sewer diversion structure and approximately 90% of the 26 million gallon per day (MGD) pumping station that will be used to fill the storage basin. A subcontractor constructing the 8.6 million gallon storage tank has completed the foundation and bottom slab, has completed approximately 50% of the wall construction, and has begun forming the underside of the domed reinforced concrete roof. All major equipment for the facility, including pumps, bar screen, mixers, and electrical gear has been approved and is currently being manufactured. In sum, the project remains on course for substantial completion – and beginning service – by the contract deadline of July 25, 2025.

There are presently no issues or circumstances causing delay to the storage basin project. The one issue that has been identified as having *potential* to cause any type of delay is the supply chain. Specifically, the contractor has indicated that the standby emergency generator may not be available before the contract deadline of July 25, 2025. However, even if the generator is late arriving, that would not prevent the facility from beginning operation by the July 25, 2025 contract deadline.

Photos of the current progress at the site are attached hereto as collective Exhibit “A.”

Long-Term Alternative Treatment

As set forth in the December 29, 2023 filing [Doc. # 162], the District is undertaking the project to provide permanent alternative treatment, allowing it to fully disconnect from the

City's sewer system, in conjunction with DeSoto County Regional Utility Authority ("DCRUA") pursuant to a December 21, 2023 contract between the two entities. The project involves a major expansion of DCRUA's existing Johnson Creek Wastewater Treatment Facility as well as the necessary improvements to allow the District's wastewater to be properly treated and disposed of from the expanded plant. These include a new pump station and force main to convey the District's untreated wastewater against natural gravity flow south to the Johnson Creek facility for treatment ("Influent Line") and a new pump station and force main to convey all treated effluent to the Mississippi River ("Effluent Line"). Overall, the District and DCRUA are on schedule with respect to the dates set forth at [Doc. 162].

DCRUA continues to aggressively seek funding for the project from all potential sources. In Section 340(b)2(FF) of the Water Resources Development Act of 2024 , Section 219 of the Water Resources Development of 1992 was amended to increase DCRUA's authorization for potential appropriated funds by an additional \$40 million. The authorized funds must then be appropriated, but authorization is of course an important first step. DCRUA has also applied for federal funds via the EPA STAG grant program, and is considering funding from the United States Economic Development Administration.

DCRUA has engaged a governmental affairs consultant to assist with the process of seeking funding for the project. To that end, DCRUA and its consultant have a meeting set with Mississippi state legislators on January 15, 2025, seeking funding for the project. DCRUA has also submitted applications for State Revolving Fund (SRF) loans totaling \$300 million for the project; DCRUA's consultant has met with Mississippi Department of

Environmental Quality officials to discuss how SRF funding could be structured to fund a substantial portion of the project.

As previously reported, during the 2024 Mississippi legislative session, DCRUA was able to secure legislation increasing its bonding capacity from \$40 million to \$80 million; with \$12 million in current bond debt, that brings DCRUA's available bonding capacity up to \$68 million. DCRUA presently anticipates utilizing a combination of its increased bonding capacity, direct funding, and State Revolving Fund low-interest loans to meet the total financial needs of the project, with any federal funding as an offset to the necessity of using bond funding. DCRUA also maintains the ability to seek an additional increase in its bond capacity as necessary. DCRUA and the District are prepared to seek bond funding as necessary to begin construction of the project on time.

Finally, the DCRUA Engineers have started the engineering design for the required upgrade of the Johnson Creek Wastewater Treatment Facility to include the effluent pump station/force main, Johnson Creek Solids Handling Infrastructure, and the required influent pump station/force main.

None of the specific tasks set forth in the December schedule were expected to be completed in the first year. However, land acquisition for the effluent pump station was completed in June 2024. The District remains on schedule to disconnect from the City's sewer system by the Court's stated deadline of October 1, 2031.

Respectfully submitted, this the 30th day of December, 2024.

HORN LAKE CREEK BASIN INTERCEPTOR
SEWER DISTRICT

By: /s/ W. Abram Orlansky
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